

# Traffic Safety Facts

## Laws

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## Administrative License Revocation (Suspension)

The National Highway Traffic Safety Administration (NHTSA) encourages States to require prompt, mandatory revocation or suspension of driver's licenses for alcohol and/or other drug test failure and/or refusal. Unintentional injury is the leading killer of persons 1 through 34 years old in the United States with motor vehicle crashes the main cause. Forty-one percent of these fatalities involve alcohol and/or other drugs. Suspending or revoking driver's licenses for those driving while un-

der the influence of alcohol or other drugs has proven to be a successful deterrent, if implemented by States.

Administrative license revocation (ALR) laws are based on objective chemical tests (usually breath, sometimes blood or urine) and are similar to "illegal per se" criminal laws against impaired driving. Administrative license revocation allows law enforcement and driver licensing authorities to suspend or revoke a driver's license swiftly, without long delays, while awaiting a criminal trial. The offender retains the right of due process through an administrative appeal system. ALR is similar to the "implied consent" laws that automatically suspend a driver's license for drivers who refuse to submit to a BAC test whereas ALR automatically suspends or revokes the license for failing a BAC test.

### Key Facts

- In 2001, 41 percent of the 42,116 motor vehicle crash deaths nationwide were alcohol-related. This percentage translates to 17,448 alcohol-related deaths in that year.
- As of October 2002, 40 States and the District of Columbia had adopted some form of administrative license revocation.

(AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, LA, ME, MD, MA, MN, MS, MO, NE, NV, NH, NM, NC, ND, OH, OK, OR, TX, UT, VT, VA, WA, WV, WI, and WY.)

- Administrative license revocation is constitutional and is not considered double jeopardy. All cases in which the highest State appellate courts have considered this issue have held that a separate criminal trial for an impaired driving offense following an ALR action does not constitute double jeopardy under either Federal or State constitutional law.
- The U.S. Supreme Court has found that the right of due process is not violated if a driver's license is suspended prior to an administrative hearing, as long as provisions are made for a swift post suspension hearing. [Mackey v. Montrym, 443 U.S. 1 (1979)]
- One research study found that ALR laws reduced fatal crashes by approximately 9 percent during high-risk (late night) periods of alcohol involvement.
- According to other studies, Illinois, New Mexico, Maine, North Carolina, Colorado, and Utah have seen significant reductions in alcohol-related

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fatal crashes after enacting ALR procedures.

- For laws to be effective, publicity is an important factor because drivers must know and understand the consequences of their actions. One research study conducted in Nevada found a 12 percent reduction in alcohol-related crashes following implementation of a publicity campaign designed to inform the public about the ALR procedure.
- Administrative license revocation does not have a major impact on an offender's job or income. A 1996 study compared three ALR States with one State that used other sanctions for impaired driving; there was no difference between ALR and non-ALR States in offender employment or income. In both ALR and non-ALR States, 94 percent of the offenders who were working at the time of their arrest were still working one month later; 4 percent were unemployed; and the remaining 2 percent were in school. License revocations as long as 90 days did not lead to a loss of job or income.

### **What Provisions Should Be Included in An Administrative Revocation (Suspension) Law?**

- The language of these laws should be consistent with the provisions of the State's administrative procedures acts.
- The arresting officer should, at the time of arrest, serve the notice of revocation (suspension), take the offender's license, and issue a temporary permit.
- The driver should have the opportunity for an administrative hearing.
- The hearing request should

not be allowed to delay the revocation (suspension).

- The initial administrative revocation (suspension) for test failure should be at least 90 days with full revocation for 30 days, followed by at least 60 days of restricted driving. Restricted driving privileges should be permitted only in limited circumstances, and only after an initial "hard" revocation (suspension) period. The initial revocation (suspension) for a test refusal should be a full 90 days, with no restricted driving privileges. For a repeat offense within five years, the revocation (suspension) should be for one year, with no restricted driving privileges. Licensing action should take effect within 30 days of notice.
- The administrative sanction should be handled separately from the criminal proceeding. The outcome of the administrative action should have no bearing on the criminal proceedings, including sanctions. Likewise, a determination in a criminal proceeding should not affect the outcome in an administrative licensing action.

### **How Much Does An Administrative License Revocation (Suspension) Program Cost?**

- A 1991 study analyzed the costs and benefits associated with administrative license revocation laws in Illinois, Mississippi, and Nevada. The study revealed that startup and operating costs were adequately covered through the assessment of reinstatement fees to offenders. In addition, the annual savings in costs for nighttime crashes that were

reduced as a result of ALR laws ranged from \$37 million in Nevada to \$104 million in Mississippi.

### **How Can Administrative License Revocation (Suspension) Be Financed?**

The offenders, rather than taxpayers, should pay for these programs. Some States have significantly increased the reinstatement fee for drivers whose licenses are revoked for driving while intoxicated (DWI); some States have raised all reinstatement fees; and other States have increased all license application and renewal fees. Other fines, fees, and taxes can provide funding, such as an alcoholic beverage tax that can be earmarked for alcohol program expenses, including ALR.

### **Who Supports Administrative License Revocation (Suspension)?**

The following organizations have publicly expressed support for this type of law:

- Advocates for Highway and Auto Safety
  - Allstate Insurance
  - American Alliance for Rights and Responsibilities
  - American Association of Motor Vehicle Administrators
  - American Automobile Association (AAA)
  - American Automobile Manufacturers Association
  - American Insurance Association
  - Automotive Coalition for Traffic Safety
  - Center for Substance Abuse Prevention
  - The Century Council
  - Federal Highway Administration
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- GEICO
- Governors Highway Safety Association
- General Federation of Women's Clubs
- Highway Users Federation for Safety and Mobility
- Insurance Information Institute
- Insurance Institute for Highway Safety
- International Association of Chiefs of Police
- Kemper Insurance Group
- Mothers Against Drunk Driving (MADD)
- National Association of Independent Insurers
- National Association of State Alcohol and Drug Abuse Directors
- National Association of State Emergency Medical Service Directors
- National Commission Against Drunk Driving
- National Highway Traffic Safety Administration
- National Safety Council
- National Sheriffs' Association
- National Transportation Safety Board
- Nationwide Insurance
- Operation Lifesaver
- Police Executive Research Forum
- Remove Intoxicated Drivers (RID)
- Students Against Destructive Decisions (SADD)
- U.S. Department of Justice
- USAA Insurance

## Incentive Grant Program

On May 22, 1998, Congress passed H.R. 2400, the Transportation Equity Act for the 21st Century (TEA-21). TEA-21 made substantial changes to the existing Section 410 alcohol incentive grant program. Pursuant to the new Section 410 program, as

amended by TEA-21, States may have qualified for a "Programmatic Basic Grant" if they submit materials demonstrating that they meet five out of seven basic grant criteria to combat impaired driving, including a streamlined administrative license revocation basic grant criterion.

To rely on this criterion, as one of the criteria to qualify for a grant, a State must have an administrative license revocation system requiring that first offenders be subject to a 90-day suspension; that repeat offenders be subject to a one-year suspension or revocation; and that suspensions or revocations will take effect within 30 days after the offender refuses to submit to a chemical test or receives notice of having failed the test. The program also requires that these suspension and revocation terms be "hard." For example, during these terms all driving privileges are suspended or revoked, except that first offenders who submitted to, and were determined to have failed a chemical test, may be subject to a 30-day hard suspension, and then may receive restricted driving privileges or a hardship license for the remainder of the 90-day term. A State may demonstrate compliance with this criterion as either a "Law State" or a "Data State" by submitting copies of its administrative revocation laws or data relating to the sanctions imposed under the program.

## Research Studies

*Effects of Administrative License Revocation on Employment.* Kathleen Knoebel and H. Lawrence Ross, Ketron, DOT HS 808 462, May 1996.

*Cost Benefit Analysis of Administrative License Suspension.*

John Lacey, et al., MidAmerica Research, NHTSA DOT HS 807 689, January 1991.

*An Assessment of the Effects of Publicizing Administrative License Revocation for DWI in Nevada.* John Lacey, et al., University of North Carolina Highway Safety Research Center, NHTSA DOT HS 807 600, March 1990.

*Fatal Crash Involvement and Laws Against Alcohol-Impaired Driving.* Paul L. Zador, et al., Insurance Institute for Highway Safety, February 1989.

*Changes in Alcohol-Involved Fatal Crashes Associated with Tougher State Alcohol Legislation.* Sigmastat, Inc. NHTSA, July 1989.

*Impact of Driver's License Suspension on Employment Stability of Drunken Drivers.* Elizabeth Wells-Parker and Pamela Cosby, Mississippi Alcohol Safety Education Program, Social Science Research Center, Mississippi State University, June 1987.

## Information Sources

*Study in Four States Shows that ALR Has Little Effect on Violator's Employment or Income.* NHTSA Traffic Tech, October 1996.

*Double Jeopardy.* ALR Information Packet, published by the National Traffic Law Center, 99 Canal Center, Suite 510, Alexandria, VA 22314, November 1996.

*Police Costs Associated with Administrative License Revocation.* NHTSA Traffic Tech, No. 59, January 1994.

*Potential Lives Saved If Administrative License Revocation*

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*Law Adopted 1990.* NHTSA Traffic Tech, No. 24, March 1992.

*Administrative License Revocation: Resource Manual.* NHTSA, DOT HS 807 873, July 1992.

*Administrative Licensing Revocation: Most Frequently Asked*

*Questions.* NHTSA DOT HS 808 906, July 1999

*Administrative License Revocation: Facts, Myths, and Fictions.* Kathryn Stewart, Office for Substance Abuse Prevention, January 1991.

*Sample State Administrative Driver*

*License Suspension Forms.* DOT HS 807 547, March 1990.

*Administrative License Revocation Costs and Benefits.* NHTSA, Fact Sheet, 2002.

*Administrative License Revocation.* Video produced for NHTSA by USAA, 12 minutes.



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